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19 JAN 2006

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In re Application of	:	DECISION ON
Christoph Leinemann	:	
Application No.: 10/559,761	:	
PCT No.: PCT/DE03/07219	:	
Int. Filing Date: 03 June 2004	:	
Priority Date: 06 June 2003	:	PETITION UNDER
Attorney's Docket No.: 03100261aa	:	
For: PERMANENTLY FIREPROOF FLAME	:	
GUARD	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 07 December 2005.

**BACKGROUND**

On 03 June 2004, this international application was filed, claiming an earliest priority date of 06 June 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 06 December 2005. This international application became abandoned with respect to the United States at midnight on 06 December 2005 for failure to pay the required basic national fee.

On 07 December 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the basic national fee, the petition fee and an executed declaration.

**DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

**DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

The required fees of \$130.00 (the surcharge under 1.492(e) for late filing of the declaration) and \$130.00 (furnishing the English translation later than 30 months from the earliest priority date) for a total of \$260.00 have been charged to Deposit Account No.: 50- 2041 as authorized in the transmitted letter submitted on 07 December 2005.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **07 December 2005**.

  
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